IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.279 OF 2006

Jaynarayan Revappa Koundubhairi .. Appellant.
Vs.
The State of Maharashtra & Ors. .. Respondents.

Mr.S.A.Joshi for the appellant.
Mr.S.N.Gawde AGP for the respondent-State.

CORAM : D.B.BHOSALE, JJ.
DATED : 11TH JULY, 2007.

P.C.:

. Heard learned counsel for the appellant and learned A.G.P. for the respondent-State.

2. This appeal challenges the judgment and order dated 23rd December, 2005 passed by the appellate court in civil appeal No.139 of 2002 by which the appeal has been allowed and the judgment and decree passed in special civil suit no.50 of 1996 has been set aside and the suit filed by the appellant came to be dismissed. The suit was filed for damages. Mr.Joshi, learned counsel for the appellant vehemently submitted that the appellant was never put in possession of the plot after his bid was accepted or he made the payment of Rs.23,400/- in two instalments. The last instalment of the amount was paid on 16th June, 1995. The auction was confirmed

on 3rd June, 1995. It has come on record that on 16.6.1995 possession receipt was signed by the appellant. Though the appellant denied the contents of the receipt he has admitted signature on the receipt. It further appears that the panchnama was also drawn on 16.6.1995 by which the appellant was put in possession of the plot for lifting sand for the period between 1st April, 1995 to 31st March, 1996. The grievance was made for the first time by the appellant that he was not put in possession of the plot in October, 1995. The trial Court appears to have decreed the suit mainly on the ground that in the possession receipt boundaries of the plot were not mentioned. The appellate court has set aside the finding and has rightly allowed the appeal filed by the respondents. Considering the findings of fact recorded by the court below and as I find sufficient material on record to sustain those findings and considering that no substantial question of law is either raised or involved in the appeal, this appeal fails and is dismissed as such.

(D.B.BHOSALE, J.)